

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

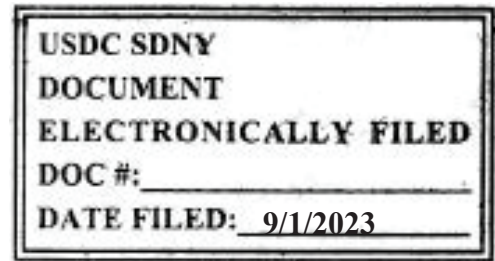
FRANK DITTO,

Plaintiff,

-against-

CATHERINE DITTO; DOES 1-10,

Defendants.



23 Civ. 5814 (JHR)

ORDER OF SERVICE

JENNIFER H. REARDEN, United States District Judge:

Plaintiff Frank Ditto, who is appearing *pro se*, brings this action under the court's diversity of citizenship jurisdiction, asserting state-law claims against Defendants. Plaintiff sues Catherine Ditto, and ten John Doe defendants. By order dated August 23, 2023, the Court granted Plaintiff's request to proceed *in forma pauperis* ("IFP"), that is, without prepayment of fees. ECF No. 4.

DISCUSSION

A. Service on Defendant Catherine Ditto

Because Plaintiff has been granted permission to proceed IFP, he is entitled to rely on the Court and the U.S. Marshals Service to effect service.¹ *Walker v. Schult*, 717 F.3d. 119, 123 n.6 (2d Cir. 2013); *see also* 28 U.S.C. § 1915(d) ("The officers of the court shall issue and serve all process . . . in [IFP] cases."); Fed. R. Civ. P. 4(c)(3) (the court must order the Marshals Service to serve if the plaintiff is authorized to proceed IFP).

¹ Although Rule 4(m) of the Federal Rules of Civil Procedure generally requires that a summons be served within 90 days of the date the complaint is filed, Plaintiff is proceeding IFP and could not have served the summons and the complaint until the Court reviewed the complaint and ordered that the summons be issued. The Court therefore extends the time to serve until 90 days after the date the summons is issued.

To allow Plaintiff to effect service on Defendant Catherine Ditto through the U.S. Marshals Service, the Clerk of Court is instructed to fill out a U.S. Marshals Service Process Receipt and Return form (“USM-285 form”) for this Defendant. The Clerk of Court is further instructed to issue a summons and deliver to the Marshals Service a copy of this Order and all other paperwork necessary for the Marshals Service to effect service upon Defendant.

If the complaint is not served within 90 days after the date the summons is issued, Plaintiff should request an extension of time for service. *See Meilleur v. Strong*, 682 F.3d 56, 63 (2d Cir. 2012) (holding that it is the plaintiff’s responsibility to request an extension of time for service).

Plaintiff must notify the Court in writing if his address changes, and the Court may dismiss the action if Plaintiff fails to do so.

B. John Doe Defendants

Plaintiff neither makes any allegations against the John Doe Defendants nor supplies sufficient information to permit the attorney for, or agent of, the Doe Defendants to identify them. Thus, the Court declines at this time to issue an order seeking the identities of the John Doe Defendants under *Valentin v. Dinkins*, 121 F.3d 72, 76 (2d Cir. 1997) (holding that a *pro se* litigant is entitled to assistance from the district court in identifying a defendant).

CONCLUSION

The Clerk of Court is instructed to issue a summons for Catherine Ditto, complete the USM-285 forms with the address for this Defendant, and deliver all documents necessary to effect service to the U.S. Marshals Service.

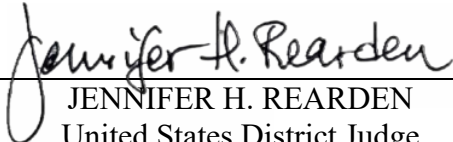
The Clerk of Court is further directed to mail an information package to Plaintiff.

The Court certifies under 28 U.S.C. § 1915(a)(3) that any appeal from this order would not be taken in good faith, and therefore *in forma pauperis* status is denied for the purpose of an

appeal. *Cf. Coppedge v. United States*, 369 U.S. 438, 444-45 (1962) (holding that an appellant demonstrates good faith when he seeks review of a nonfrivolous issue).

SO ORDERED.

Dated: September 1, 2023
New York, New York



JENNIFER H. REARDEN
United States District Judge

DEFENDANT AND SERVICE ADDRESS

Catherine Ditto
446 Ferdinand Avenue
Forest Park, Illinois 60130